IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

W.A.No. 1056 of 2004(A)

AGAINST THE JUDGEMENT/ORDER IN WPC.37069/2003 Dated 18/12/2003
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APPELLANT: PETITIONER IN W.P.(C):

V.A. JAYARAMAN, AGED 45 YEARS,
S/O. ACHUTHAN, VADAKKUMCHERI HOUSE,
ENGANDIYOOR P.O., THRISSUR DISTRICT.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS/RESPONDENTS IN W.P.(C):
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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, DEPARTMENT OF EXCISE,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF EXCISE,
EXCISE DEPARTMENT, THIRUVANANTHAPURAM.

3. THE ASSISTANT COMMISSIONER OF EXCISE,
ERNAKULAM.

BY GOVERNMENT PLEADER SRI.NOBLE MATHEW
SRI.K.K.BABU,(SC)

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05/12/2006, ALONG WITH WPC NO. 31516 OF 2004 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & M.N.KRISHNAN,JJ

W.A.No.1056OF 2004 AND W.P.(C)NO.31516 OF 2004

DATED THIS THE 5TH DECEMBER, 2006

JUDGMENT

K.S.RADHAKRISHNAN,J

Writ Appeal 1056 of 2004 arises out of the judgment in Writ Petition No.37069 of 2003. Writ Petition was preferred for a declaration that Rule 9(10) (b) of the Abkari Shops Disposal Rules is unconstitutional. Learned single judge disposed of writ petition along with a batch of cases upholding Rule.4(2) and Rule.9(10) (b) of Kerala Abkari Shops Disposal Rules against which W.A.No.1056 of 2004 has been preferred. Writ Petition No. 31516 of 2004 is also preferred by the same appellant. Division Bench of this court in **Anilkumar Vs. State of Kerala (2005 (1) KLT 130)** affirmed the judgment of single judge. However, the matter was taken before the apex court and the apex court in **Kerala Samsthana Chethu Thozhilali Union Vs. State of Kerala [2006 (2) KLT 270 (SC)]** declared Rule 4(2) and 9 (10) (b) of the Rules ultravires. In these circumstances Writ Petition 37069 of 2003 stands allowed, so also Writ Appeal 1056 of 2004 and Writ Petition 31516 of 2004 stand allowed .

K.S.RADHAKRISHNAN,JUDGE

M.N.KRISHNAN,JUDGE

dvs